IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

T.T., a minor, by his parents, J.T. and S.T. P.D., a minor, by his mother, A.M. M.R., a minor, by her parents, M.R. and J.R. Plaintiffs v. Spring Cove School District and Appalachia Intermediate Unit 8 Defendants,	: :	Civil Action No. 3:15-cv-00209-KRG ELECTRONICALLY FILED JURY TRIAL DEMANDED

AMENDED COMPLAINT IN CIVIL ACTION

Plaintiffs by their attorneys Jonathan Steele and Steele Schneider file this Complaint in Civil Action against Defendant Spring Cove School District and Appalachia Intermediate Unit 8, and aver as follows:

JURISDICTION AND VENUE

1. This action arises under Section 504 of the Rehabilitation Act (29 U.S.C. § 794 *et seq.*), and Title II of the Americans with Disabilities Act (42 U.S.C. § 12132 *et seq.*)
2. Jurisdiction is conferred on the Court by 28 U.S.C. § 1331.
3. Venue in this District is proper under 28 U.S.C § 1391(a).

PARTIES

4. T.T. is a minor student residing with his parents, S.T. and J.T., within the geographical boundaries of the Northern Bedford School District.

5. P.D. is a minor student residing with his mother, A.M., within the geographical boundaries of the Spring Cove School District.

6. M.R., is a minor students residing with their parents within the geographical boundaries of the Spring Cove School District.

7. Spring Cove School District ("District") is a Pennsylvania public school district having an address of 1100 E Main St, Roaring Spring, PA 16673.

8. Appalachia Intermediate Unit 8 ("IU") is a Pennsylvania educational service agency having an address of 4500 6th Avenue, Altoona, PA 16602.

FACTUAL BACKGROUND

9. IU 8 provides educational services to participating school districts in Cambria, Blair, Somerset, and Bedford Counties.

10. Spring Cove School District receives education services from IU8.

11. Northern Bedford School District receives education services from IU8.

12. These educational services include providing regional special education classes that are housed within participating school districts.

13. IU 8 offered a Life Skills program housed at Spring Cove School District's Middle School until then end of the 2013-2014 school year.

14. Qualifying students from school districts within IU8's geographical boundaries would attend the program to receive special education instruction that was not offered in their home districts.

15. On March 18, 2014, Spring Cove School District ("District") elected to take full control of the Life Skills Support class.
16. On or before the beginning of the 2014-2015 school year, the District assumed control of the Life Skills Support class.
17. The District elected to continue to accept students from neighboring school districts, such as Northern Bedford School District.
18. The District and IU8 discriminated against students enrolled in the Life Skills class.
19. Students qualify to attend the Life Skills class based on their individual educational needs.
20. These needs arise of out identified disabilities that entitle them to special education.
21. All of the minor plaintiffs qualify to participate in school activities as they are of compulsory school age and reside within the geographical boundaries of their home school district.
22. All of the minor plaintiffs have a disability as it is defined under the ADA.
23. All of the minor plaintiffs ("LS Students") attend the District's Life Skills class and previously attended the IU8 Life Skills class.
24. All nondisabled students in the District change for physical education class in a locker room with same sex peers.
25. The District and IU required LS Students to change for physical education in a storage closet or bathroom stall instead of the locker room with their nondisabled peers.
26. All nondisabled students participate in a health class exclusively made up of same sex peers.

27. The District and IU discriminated against the male LS Students by placing them in an all-female health class instead of with their same sex nondisabled peers.
28. All non-disabled students' names appear in the local newspaper before the start of school.
29. The District and IU excluded LS Students from the homeroom posting in the local newspaper before the start of school.
30. The District discriminated and breached confidentiality of the LS Students by identifying the students in the yearbook by disability/support received.
31. Non-disabled students are permitted to select where they sit in the lunchroom.
32. The LS Students are required to sit in assigned seats during lunch, which limits their ability to socialize/choose who they socialize with.
33. The District and IU discriminated against the LS Students by requiring the students to sit in assigned seats during lunch with the other Life Skills Support students instead of their nondisabled peers.
34. Non-disabled students are not required to clean the cafeteria after they use it.
35. The District and IU discriminated against the LS Students by requiring them to clean the cafeteria after their non-disabled peers used it.
36. There was no legitimate educational purpose behind having the LS Students clean the cafeteria.
37. The District and IU discriminated against 8th grade students in the Life Skills Support class by not including them in field trips to the Career and Technology Center with their nondisabled peers.

38. The District admitted to the conduct referenced in paragraphs 25, 27, 29, 30, 33, and 37 during an investigation by the Bureau of Special Education.
39. The District and IU excluded the LS Student from participation in, and thus denied them the benefits of, their education.
40. The District and IU excluded the LS Students from any meaningful time with their non-disabled peers by segregating them anytime they left their classroom.
41. This non-disabled peer time offers unique educational benefits provided by the opportunity to interact with nondisabled or higher functioning peers.
42. Even if the child with the disability can only absorb a minimal amount of the regular educational program, he or she may benefit enormously from the language and behavior models of his nondisabled peers.
43. The fact that a child with disabilities will learn differently from his or her education within a regular classroom does not justify exclusion from that environment.
44. The District and IU denied Students the opportunity to benefit from interacting with their nondisabled peers.
45. In library class, instead of integrating the students, the District and IU segregated the LS Students in a completely separate room.
46. In gym class, the District and IU made the LS Students change in separate rooms from their non-disabled peers without consideration of their individual abilities.
47. In the lunchroom, the LS Students were limited to sitting with their LS classmates, when their non-disabled peers could freely socialize.
48. There was no legitimate educational reason to segregate the LS students from their non-disabled peers.

49. The District and IU segregated the LS students solely on the basis of their disability.
50. The District and IU discriminated against the LS Students solely on the basis of their disability.
51. The District and IU knew that the LS Students were being discriminated against and segregated from their non-disabled peers.
52. The District and IU failed to take any corrective action despite knowing that the LS Students were being discriminated against and segregated from their non-disabled peers.

COUNT ONE

Discrimination Under The Rehabilitation Act Of 1973, Section 504 and Title II Of The Americans with Disabilities Act (42 U.S.C. §12132 Et Seq.)

53. Plaintiffs hereby incorporate the previous paragraphs by reference as if fully set forth herein.
54. The LS Students have a disability under Section 504 because they suffer from identified impairments, have records of such impairment, and are regarded as having such impairments.
55. The LS Student's impairments substantially limit major life activities. Specifically their ability to learn, and socialize with peers.
56. The LS Students are otherwise qualified to participate in school activities
57. Defendant Spring Cove School District receives federal financial assistance.
58. Defendant IU8 receives federal financial assistance.

59. The Defendants excluded LS Student from participation in, denied the benefits of, and subjected them to discrimination in that that they were segregated from nondisabled peers.
60. The Defendants were aware that the Plaintiffs were able to attend and participate in the general education curriculum subject to reasonable accommodations. Despite this knowledge the Defendant took actions to segregate the Plaintiffs.
61. The Defendants were deliberately indifferent to the LS students as detailed above.

WHEREFORE, Plaintiffs seek monetary damages and reasonable attorneys' fees and costs under Section 504 and the ADA against both defendants.

.

Respectfully submitted,

/s/ Jonathan D. Steele
Jonathan D. Steele, Esquire
PA I.D. 313969
STEELE SCHNEIDER
428 Forbes Avenue, Suite 700
Pittsburgh, PA 15219
(412) 235-7682
(412) 235-7693/facsimile
jonathansteele@steeleschneider.com

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2015, the foregoing **Amended Complaint** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic case filing system and constitutes service of this filing under Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure. Parties may access this filing through the Court's ECF system.

/s/ Jonathan D. Steele, Esquire
Jonathan D. Steele, Esquire